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The AVMSD

and the future of

broadcasting regulation

EGTA ISSUE BRIEF ON AUDIOVISUAL CONVERGENCE

// October 2014

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AUDIOVISUAL CONVERGENCE

***Audiovisual convergence** can be understood as the progressive merger of traditional broadcast services and the internet. This results in viewing possibilities extending from TV sets with added internet connectivity, through set-top boxes delivering video content “over-the-top” (OTT) to audiovisual media services provided via PCs, laptops or tablets and other mobile devices.*

***Facts:** Global sales of connected TV devices totalled **275 million** units in **2013** bringing the total number of TV centric connected devices in use to **895 million** by the end of the year. During **2014** ownership of such devices will cross the **1 billion unit** threshold. This convergent multi-platform marketplace presents both opportunities and challenges to the incumbent companies who lead the traditional consumer audiovisual market, and is also attracting powerful new players from the digital world, notably Google, Apple and Amazon.*

// Context

The Audiovisual Media Services Directive (AVMSD), adopted in 2007 and fully implemented in all 28 member states by 2013, is the principal piece of legislation governing the EU audiovisual advertising industry. It introduced new rules on advertising techniques, such as product placement and sponsorship, gave clear qualitative and quantitative parameters and offered sufficient flexibility to encourage creative advertising while maintaining consumer protection as its core value.

However, the broadcasting and advertising industries have developed significantly in the last seven years as audiovisual convergence has become a reality. With this in mind the European Commission published a Green Paper entitled “Preparing for a fully converged audiovisual world”¹, which invited stakeholders to share their views on the implications that a changing media landscape and borderless Internet are having on economic growth, business innovation and the values that underpin the regulation of audiovisual services in Europe.

¹ European Commission Green Paper “Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values”, COM (2013) 231 final, 24.04.2013

At the same time, the European Parliament adopted two own-initiative reports: on Connected TV and Devices and on Audiovisual Convergence. In July 2013, the European Parliament adopted MEP Petra Kammerevert's own-initiative report on Connected TV², which acknowledged the important economic role of advertising by rejecting the *"introduction of new, or the extension of existing, advertising bans or other measures which have an impact on advertising as a source of funding."* Another own initiative report by MEP Sabine Verheyen in response to the European Commission Green Paper, *"Preparing for a fully converged audiovisual world"*³, was adopted in March 2014. Both reports are warmly welcomed by egta and its members due to their recognition of the importance of commercial revenues to audiovisual media.

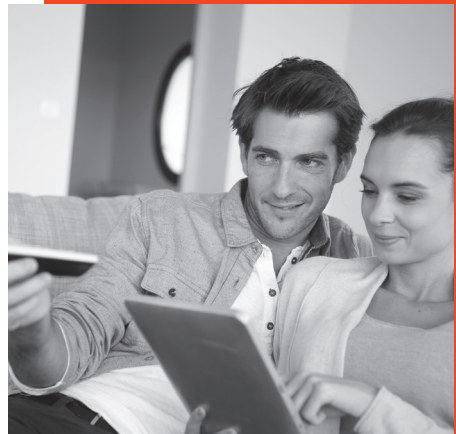
The European Commission has announced that it will publish the second application report of the AVMSD in May 2015. It has also announced that 2015 will see a review of the Directive. Taken together with last year's Green Paper it is clear that evolving patterns of TV consumption are triggering regulatory attention. From egta's point of view, certain issues are of paramount importance moving forward. These include: safeguarding the existing levels of consumer protection in commercial communications; maintaining the principle of editorial responsibility; guaranteeing the signal integrity of broadcasters and the freedom to explore new formats and opportunities.

Despite the increase in audiovisual convergence, traditional linear TV has not suffered the expected demise. In reality, viewing figures for TV have proven surprisingly robust against the attempts of on-demand Internet video, mobile communications,

and social media to draw consumers' attention away from broadcast content. For example in the UK, for every minute spent on YouTube, the average person spends nearly an hour watching linear television⁴. In Germany, if YouTube were a TV Channel, its market share would be less than 1%. Linear TV is watched 130 hours per month – almost 44 times more than YouTube (3 hours)⁵.

// egta position

- Most of the current regulatory obligations, which apply to linear TV editors, do not apply to Internet content providers. The differences in regulatory treatment are most apparent on connected TVs since they may display, on the same screen, regulated audiovisual media content and less regulated Internet content.
- As they invest heavily in programmes and services, broadcasters and their sales houses have a vital interest in ensuring that the content they provide is displayed on screen in an unaltered



² European Parliament resolution of 04.07.2013 on Connected TV

³ European Parliament resolution of 12.03.2014 on Preparing for a fully converged audiovisual world

⁴ January 2013, BARB, UKOM

⁵ AGF/GfK, TV Scope 5.0 (KFA 0/1, Age 3+), ComScore (Home + Work), January 2013; IP Deutschland 04.06.2013

form, without unauthorised overlays. Preserving the quality of the broadcasting picture assures the broadcasters' services, reputation and credibility. This is equally the case for media content and media services delivered via the Internet.

Broadcasters are developing their commercial communications offerings to meet the demands of a converged market. **Advertising will continue to be a vital source of revenue for media service providers and as long as the high standards that broadcasters currently adhere to are applied in a flexible manner by all providers of commercial communications, consumers will continue to receive a high standard of entertaining and informative content.**

Any review of EU-level audiovisual regulation should be based on principles rather than on micro-management and should examine how to best deliver the policy goals, including via self-regulation.

These key principles should include:

- commercial overlays and other novel techniques should be possible only with the prior consent of the broadcaster;
- ethical rules on commercial communications;
- signal integrity (necessary for sustaining editorial responsibility);
- high level protection of minors;
- the principle of editorial responsibility;
- contractual freedom;
- country of origin for trans-frontier television.

Any future regulation must preserve the core elements of the current AVMSD that underpin Europe's thriving audiovisual market.

In October 2013 egta produced its latest regulatory affairs publication ***Understanding the AVMSD: Practical guidelines on the implementation of the Audiovisual Media Services Directive***. This recent guide focuses on the implementation of the Directive in order to give a broad overview of how it has been applied in the different national markets. It also contains a detailed section on national and European case law relating to the transposition of the Directive up and until publication. We believe that this guide allows advertising professionals and institutional decision-makers to gain a deeper awareness and understanding of how their colleagues throughout the EU have responded to the AVMSD.

additional egta information available upon request:

- **Understanding the AVMSD: Practical guidelines on the implementation of the Audiovisual Media Services Directive**
- **egta's database on TV advertising regulation.**
- **egta response to the Commission Green Paper on "Preparing for a fully converged audiovisual world."**

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